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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
JOHN J. RUSZKIEWICZ,	:
	:
Plaintiff,	:
	:
v.	:
	:
LORI LAUER,	:
	:
Defendant.	:
-----X	

ANSWER
07 Civ. 10287 (CLB)
ECF CASE

Defendant, by her attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, hereby answers the complaint on information and belief as follows:

1. Admit.
2. Admit the first sentence. The second sentence constitutes plaintiff's characterization of this action, to which no response is required.
3. This paragraph constitutes plaintiff's characterization of this action, to which no response is required.
4. Deny except to admit that defendant's actions were taken under her authority as an officer of the U.S. Fish and Wildlife Service ("FWS").

5. This paragraph constitutes plaintiff's jurisdictional statement, to which no response is required. To the extent a response is deemed required, deny that the Court has jurisdiction over plaintiff's common law claims.

6. This paragraph constitutes plaintiff's jurisdictional statement, to which no response is required. To the extent a response is deemed required, deny that the Court has jurisdiction over plaintiff's common law claims.

7. Admit.

8. Deny.

9. Deny except to admit that, while the plaintiff was in custody, Officer Turner executed a felony complaint charging the plaintiff with assault in the second degree as defined by New York Penal Law § 120.05(3), and that defendant provided Officer Turner with a supporting deposition, which stated that defendant placed her right hand on plaintiff's left arm and that plaintiff accelerated his vehicle at a high rate of speed which resulted in defendant's right arm being overextended, causing pain as plaintiff drove away.

10. Deny.

11. Admit.

12. Deny.

13. Deny.

14. Deny knowledge or information sufficient to form a belief as to the allegations of this paragraph.

15. Deny.

16. Deny.

The remainder of the complaint constitutes plaintiff's prayer for relief, to which no response is required. To the extent a response is required, defendant denies plaintiff is entitled to the relief sought.

FIRST DEFENSE

The complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Defendant breached no duty of care owed to the plaintiff.

THIRD DEFENSE

Defendant is entitled to qualified immunity.

* * *

WHEREFORE defendant prays that this Court enter judgment dismissing the action and award such other and further relief as the Court deems just and proper, including costs and disbursements.

Dated: New York, New York
January 28, 2008

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Defendant

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